

Application No. 10/585,902
Paper Dated: October 4, 2010
In Reply to USPTO Correspondence of June 4, 2010
Attorney Docket No. 0470-061793

REMARKS

The Office Action of June 4, 2010 has been reviewed and the Examiner's comments carefully considered. Claims 20-34, 39, 40, and 44-48 were previously pending in this application. Claims 20-34 and 39 have been withdrawn in response to the Restriction Requirement of July 13, 2009. Claim 40 has been amended to remove the recitation "such as baby food". New claims 49-51 have been added. Support for these claims may be found at page 9, lines 24-30 of the original application.

Claims 40 and 44-48 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. The Examiner asserts that the recitation of "such as" in independent claim 40 renders that claim indefinite because it is unclear whether the limitation following "such as" is part of the claimed invention. Claim 40 has been amended to remove the recitation of "such as baby food". As such, claim 40 and claims 44-48, which depend therefrom, are no longer indefinite and reconsideration and withdrawal of the rejections are respectfully requested.

The present invention is directed to a method for providing a packaging filled with a powder, where the inside wall of the container consists of a heat-sealable material to which a heat-sealable film is joined 20-50 mm below the peripheral edge of the container to seal the container. The container is further provided with a scoop and a lid.

Claims 40, 44, 45, and 48 stand rejected under 35 U.S.C. § 103(a) as being obvious over French Patent No. FR 2747107 to Bois in view of United States Patent No. 6,058,682 to Pajak et al. It is asserted in the Office Action that Bois teaches a packaging filled with powder that meets all of the limitations of independent claim 40, except sealing the heat-sealable film to the inside of the wall of the container. The missing limitation is asserted to be taught by Pajak. The Office Action states that elements 7 and 16 in Bois represent the heat-sealable material on the inside of the container and the heat-sealable film, respectively. Applicants respectfully disagree.

Bois is directed to a prior art metal can that does not teach a heat-sealable material on the inside wall of the container, nor does it teach a heat-sealable film sealed to the interior

Application No. 10/585,902

Paper Dated: October 4, 2010

In Reply to USPTO Correspondence of June 4, 2010

Attorney Docket No. 0470-061793

surface of the container via heat sealing. “Opercule 7” in Bois translates to “lid 7” in English. This lid has a rim which is folded over the rim of the can, as is usual for metal cans. Other than this mechanical attachment of the lid 7 to the container, there is no other teaching or suggestion that the lid may be attached to the container, by heat or any other means. Further, there is nothing to suggest that this lid consists of a heat-sealable material or film. “Déformation 16” in Bois translates to “depression 16” in English and merely refers to the depression formed in lid 7. In addition, there is no teaching or suggestion that the inside wall of the container consists of a heat-sealable material. Thus, Bois does not teach or suggest a container having an inside wall consisting of a heat-sealable material or joining a heat-sealable film to said inside wall of such a container, as required by independent claim 40.

In addition, the lid rim 2 in Bois is snapped, welded, or soldered onto the rim of lid 7 and not adhered to the peripheral edge of the container, as required by independent claim 40.

Pajak does not overcome these deficiencies in Bois. Pajak is directed to a container with a film fused directly to the inside wall of the container and does not teach or suggest a container having a heat-sealable material on the inside wall.

Further, a person skilled in the art would realize that with a metal can, such as the one disclosed in Bois, there is no reason to use a heat-sealable material on the inside of the can or to incorporate a heat seal at all and, therefore, even if all of the claimed elements were present in Bois and/or Pajak, there is no motivation provided in either Bois or Pajak for a person skilled in the art to combine the two references to add a heat-sealable material to the inside wall of the can and incorporate a heat seal to seal the container disclosed in Bois.

For these reasons, Bois, alone or in combination with Pajak, does not render independent claim 40 obvious. Claims 44, 45, 48, and new claim 49, which are dependent on claim 40 and further define the invention, are also not obvious for at least the same reasons. In addition, new claims 50 and 51 are also not rendered obvious by the cited prior art for the same reasons and, additionally, because the cited prior art does not teach a container wall consisting of a paper/metal foil/plastic laminate.

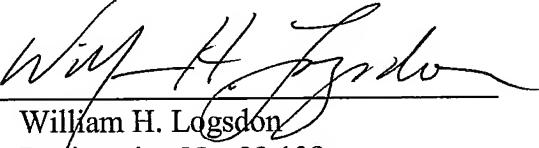
Application No. 10/585,902
Paper Dated: October 4, 2010
In Reply to USPTO Correspondence of June 4, 2010
Attorney Docket No. 0470-061793

Claims 46 and 47 stand rejected under 35 U.S.C. § 103(a) as being obvious over Bois and Pajak in further view of United States Patent No. 3,556,174 to Gibble et al. Bois and Pajak are applied to independent claim 40 as above and Gibble is asserted to teach the additional limitations of claims 46 and 47, which depend therefrom. Gibble does not overcome the deficiencies in Bois and Pajak, which were discussed above. Therefore, for the reasons stated above, Bois and Pajak, even in combination with Gibble, do not render claims 46 and 47 obvious.

Based on the foregoing amendments and remarks, reconsideration of the rejections and allowance of claims 40 and 44-51 are respectfully requested.

Respectfully submitted,

THE WEBB LAW FIRM

By 

William H. Logsdon
Registration No. 22,132
Attorney for Applicants
436 Seventh Avenue
700 Koppers Building
Pittsburgh, PA 15219
Telephone: (412) 471-8815
Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com